

Senate Bill No. 1952

CHAPTER 825

An act to amend Sections 144, 473.1, 9607, 9663, 9731, 9747, 9765, and 9786 of, and to add Sections 7612, 7746, 9605.1, 9605.2, 9610, 9723, 9723.1, 9723.2, 9750.5, 9764.1, 9764.2, 9764.3, 9787.2, 9787.3, and 9787.4 to, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 23, 2002. Filed
with Secretary of State September 23, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1952, Figueroa. Cemetery and Funeral Bureau.

Existing law creates a Joint Legislative Sunset Review Committee and authorizes it to review and evaluate various boards and commissions having duties and responsibilities relating to professions and occupations.

This bill would provide for the committee review and evaluations of the Cemetery and Funeral Bureau in the Department of Consumer Affairs.

Existing law provides for the regulation of funeral establishments, embalmers, cemeteries, and crematories by the Cemetery and Funeral Bureau in the Department of Consumer Affairs. Existing law requires a cemetery authority to display and make available to certain consumers a copy of the consumer guide for funeral and cemetery purchases.

The bill would require a cemetery authority or a cemetery licensee to provide a copy of the consumer guide to a consumer prior to drafting a contract for cemetery goods or services.

Existing law requires a person who is delinquent in renewing a cemetery license or a crematory license or a cremated remains disposer registration to pay the fee plus an additional 50% of the renewal fee, but no more than the renewal fee plus \$25.

This bill would set the delinquency fee at 150% of the timely fee, but not less than the renewal fee plus \$25.

Existing law regulates preneed contracts for funeral services, and requires a funeral establishment to file an annual report with the bureau.

This bill would require a funeral establishment that is exempt from filing an annual report or whose preneed trust funds are reported in a combined preneed trust report, to file a declaration of nonreporting status each year.

The bill would require the bureau to conduct a study on the need to regulate 3rd-party casket retailers and report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004.

Existing law provides for the examination of applicants for a cemetery license or a crematory license by the bureau.

This bill would define a cemetery manager and a crematory manager. The bill would require a licensed cemetery to employ a cemetery manager to manage, direct, and supervise the cemetery and would require a crematory to employ a crematory manager to manage, direct, and supervise the crematory. The bill would require, among other things, a licensed cemetery manager and a licensed crematory manager to be at least 18 years of age and a resident of the state. The bill would provide that the fee for a crematory manager examination and reexamination shall be no more than \$500, and that the fee for a cemetery manager examination and reexamination shall be no more than \$900. The bill would additionally provide specified fees for the licensure and renewal of a crematory manager and a cemetery manager. The bill would provide that the fee for changing the name of a designated manager or to request approval to share a designated manager shall not be more than \$50. Because these items would lead to an increase in fees being deposited into the Cemetery Fund, which is continuously appropriated, the bill would make an appropriation.

Because a violation of the provisions regulating funeral establishments is a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from



the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following boards or committees:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Registered Veterinary Technician Committee.
- (10) Board of Vocational Nursing and Psychiatric Technicians.
- (11) Respiratory Care Board of California.
- (12) Hearing Aid Dispensers Advisory Commission.
- (13) Physical Therapy Board of California.
- (14) Physician Assistant Committee of the Medical Board of California.
- (15) Speech-Language Pathology and Audiology Board.
- (16) Medical Board of California.
- (17) State Board of Optometry.
- (18) Acupuncture Board.
- (19) Cemetery and Funeral Bureau.
- (20) Bureau of Security and Investigative Services.
- (21) Division of Investigation.
- (22) Board of Psychology.
- (23) The California Board of Occupational Therapy.

SEC. 2. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This division shall apply to all of the following:

- (a) Every board, as defined in Section 22, that is scheduled to become inoperative and to be repealed on a specified date as provided by the specific act relating to the board.
- (b) The Bureau for Postsecondary and Vocational Education. For purposes of this division, “board” includes the bureau.
- (c) The Cemetery and Funeral Bureau.

SEC. 3. Section 7612 is added to the Business and Professions Code, to read:

7612. The bureau shall do all of the following:

- (a) Conduct a comprehensive study of the need to regulate third-party casket retailers.
- (b) Report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004, on the matter.



SEC. 4. Section 7746 is added to the Business and Professions Code, to read:

7746. (a) Notwithstanding any other provision of law, a funeral establishment that is otherwise exempt from the requirement of filing an annual preneed trust report or whose preneed trust funds are reported in a combined preneed annual preneed trust report, shall annually file a declaration of nonreporting status with the bureau.

(b) The declaration shall be filed on or before May 1 of each year and shall also be filed upon the transfer of ownership or the cessation of business.

(c) The declaration shall be filed on a form provided by the bureau and shall include, but shall not be limited to, both of the following:

(1) The basis upon which the funeral establishment is exempt from the annual trust reporting requirement.

(2) The specific kind and nature of the exempt preneed arrangements, if any, in which the funeral establishment engages.

(d) The declaration shall be verified by the funeral establishment's owner, a partner, or in the case of a corporation, by the president or vice president.

SEC. 5. Section 9605.1 is added to the Business and Professions Code, to read:

9605.1. (a) A cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.

(b) For persons licensed pursuant to Section 9676, a cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the following:

(1) The maintaining, operating, or improving of a cemetery licensed under this chapter.

(2) The interment of human remains.

(3) The care, preservation, and embellishment of cemetery property.

(4) Activities described in Section 9677.

SEC. 6. Section 9605.2 is added to the Business and Professions Code, to read:

9605.2. A crematory manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, or operating a crematory licensed under this chapter, and the cremation of human remains.



SEC. 7. Section 9607 of the Business and Professions Code is amended to read:

9607. “Cemetery licensee” means any cemetery broker, cemetery salesperson, or cemetery manager.

SEC. 8. Section 9610 is added to the Business and Professions Code, to read:

9610. The bureau shall do both of the following:

(a) Conduct a comprehensive study of the need for the regulation of proprietary employees of religious corporations, churches, religious societies, and religious denominations.

(b) Report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004, on the matter specified in subdivision (a).

SEC. 9. Section 9663 of the Business and Professions Code is amended to read:

9663. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A cemetery authority shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to drafting a contract for cemetery goods or services, the cemetery authority or cemetery licensee shall provide to the consumer, for retention, a copy of the consumer guide for funeral and cemetery purchases specified.

SEC. 10. Section 9723 is added to the Business and Professions Code, to read:

9723. A cemetery licensed under this chapter shall at all times employ a licensed cemetery manager to manage, supervise, and direct its operations. Notwithstanding any other provision of this chapter, licensed cemeteries within close geographical proximity of each other may request the bureau to allow a licensed cemetery manager to manage, supervise, and direct the business or profession of more than one facility.

(a) Every cemetery shall designate a licensed cemetery manager to manage the cemetery, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.



(b) The designated cemetery manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the cemetery as is necessary to ensure full compliance with the applicable provisions of the Business and Professions Code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated cemetery manager or the licensed cemetery to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A cemetery may employ, in addition to the designated cemetery manager, additional licensed cemetery managers. However, only one licensed cemetery manager may be appointed as the designated cemetery manager of the cemetery.

SEC. 11. Section 9723.1 is added to the Business and Professions Code, to read:

9723.1. (a) Application for a cemetery manager license shall be made in writing on the form provided by the bureau, verified by the applicant, and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a cemetery manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a cemetery manager license to any applicant who meets the requirements of this chapter and who has successfully passed the cemetery manager examination administered by the bureau.

(d) Notwithstanding subdivision (c), until July 1, 2004, the bureau shall grant a cemetery manager license to any applicant who meets the requirements of this chapter and can demonstrate that he or she has, prior to January 1, 2003, successfully passed the cemetery manager examination administered by the bureau. Any person who is eligible to obtain a cemetery manager license under this subdivision and who does not apply for a license by July 1, 2004, shall apply for and successfully pass the examination.

SEC. 12. Section 9723.2 is added to the Business and Professions Code, to read:

9723.2. (a) No person shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without holding a valid, unexpired cemetery manager license issued by the bureau.



(b) No licensed cemetery manager shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a cemetery manager without being employed by, or without being a corporate officer of a licensed cemetery.

SEC. 13. Section 9731 of the Business and Professions Code is amended to read:

9731. If a person fails to apply for a license renewal, no renewal license shall be issued except upon payment of the delinquent renewal fee required under Section 9750.5.

No person who fails to renew his or her license within one year of the expiration date can engage in any of the activities authorized by a license unless he or she first files the application required for an original license, pays the original license fee, and otherwise complies with all of the provisions of this act pertaining to the issuance of an original license.

SEC. 14. Section 9747 of the Business and Professions Code is amended to read:

9747. If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30th of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 9750.5.

SEC. 15. Section 9750.5 is added to the Business and Professions Code, to read:

9750.5. The delinquent renewal fee for a license, registration, or certificate of authority under this chapter shall be 150 percent of the timely fee, but not less than the renewal fee plus twenty-five dollars (\$25).

SEC. 16. Section 9764.1 is added to the Business and Professions Code, to read:

9764.1. (a) The fee for a crematory manager examination and reexamination may not exceed five hundred dollars (\$500).

(b) The license fee to obtain a crematory manager license may not exceed one hundred dollars (\$100).

(c) The renewal fee for a crematory manager license may not exceed one hundred dollars (\$100).

SEC. 17. Section 9764.2 is added to the Business and Professions Code, to read:

9764.2. (a) The fee for a cemetery manager examination and reexamination may not exceed nine hundred dollars (\$900).

(b) The license fee to obtain a cemetery manager license may not exceed one hundred dollars (\$100).

(c) The renewal fee for a cemetery manager license may not exceed one hundred dollars (\$100).



SEC. 18. Section 9764.3 is added to the Business and Professions Code, to read:

9764.3. The fee for filing a report of a change of designated manager or a request for approval to share a designated cemetery manager shall not exceed fifty dollars (\$50).

SEC. 19. Section 9765 of the Business and Professions Code is amended to read:

9765. Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each cemetery, an additional quarterly charge of not more than eight dollars and fifty cents (\$8.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid until December 31, 2007, to the bureau and these charges shall be deposited in the Cemetery Fund. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation was performed at a crematory located on the grounds of the cemetery and under common ownership with the cemetery authority, the total of all additional charges shall be not more than eight dollars and fifty cents (\$8.50).

SEC. 20. Section 9786 of the Business and Professions Code is amended to read:

9786. Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory, to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each crematory, every licensee operating a crematory pursuant to a license issued pursuant to this article shall pay until December 31, 2007, an additional charge of not more than eight dollars and fifty cents (\$8.50) per cremation made during the preceding quarter, which charges shall be deposited in the Cemetery Fund.

SEC. 21. Section 9787.2 is added to the Business and Professions Code, to read:

9787.2. A crematory shall at all times employ a licensed crematory manager to manage, supervise, and direct its operations.

(a) Every crematory shall designate a licensed crematory manager to manage the crematory, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.

(b) The designated crematory manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the crematory as is necessary to ensure full compliance with the applicable provisions of the Business and Professions Code, the Health and Safety Code, and any regulations



adopted thereto. Failure of the designated crematory manager or the licensed crematory to exercise that supervision or control shall constitute a ground for disciplinary action.

(c) A crematory may employ, in addition to the designated crematory manager, additional licensed crematory managers. However, only one licensed crematory manager may be appointed as the designated crematory manager of the crematory.

SEC. 22. Section 9787.3 is added to the Business and Professions Code, to read:

9787.3. (a) Application for a crematory manager license shall be made in writing on the form provided by the bureau, verified by the applicant and filed at the principal office of the bureau. The application shall be accompanied by the fee fixed by this chapter.

(b) The applicant for a crematory manager license shall be at least 18 years of age, possess a high school diploma or its equivalent, shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480, shall demonstrate compliance with the training and experience requirements established by the bureau, and shall be a resident of this state.

(c) The bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and who has successfully passed the crematory manager examination administered by the bureau.

(d) Notwithstanding subdivision (c), until July 1, 2004, the bureau shall grant a crematory manager license to any applicant who meets the requirements of this chapter and can demonstrate that he or she has, prior to January 1, 2003, successfully passed the crematory manager examination administered by the bureau. Any person who is eligible to obtain a crematory manager license under this subdivision and who does not apply for a license by July 1, 2004, shall apply for and successfully pass the examination.

SEC. 23. Section 9787.4 is added to the Business and Professions Code, to read:

9787.4. (a) No person shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without holding a valid, unexpired crematory manager license issued by the bureau.

(b) No licensed crematory manager shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a crematory manager without being employed by, or without being a sole proprietor, partner, or corporate officer of, a licensed crematory.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the



only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

